

Application No: 10/731,091
Attorney's Docket No: ALC 3105

REMARKS/ARGUMENTS

Claims 1-22 are pending in this application. Claims 1, 4, 6, 10-13, 15-17, 21, and 22 are independent. Claims 1, 4, 6, 10-13, 15-17, 21, and 22 are amended.

In section 2 on page 2, the Office Action rejects claims 17-22 under 35 U.S.C. § 101 as allegedly being directed to non-statutory subject matter. This rejection is respectfully traversed for at least the following reasons.

Claim 17, from which claims 18-20 depend, claim 21, and claim 22 recite "a computer-readable medium encoded with instructions," as suggested by the Examiner. For at least the forgoing reasons, Applicant respectfully requests that the rejection of claims 17-22 under 35 U.S.C. § 101 be withdrawn.

In section 5 on pages 3-5, the Office Action rejects claims 1-3 under 35 U.S.C. § 103(a) as allegedly being unpatentable over U.S. Patent Application Publication No. 2003/0110268 to Kermarec et al. (hereinafter "Kermarec") in view of U.S. Patent No. 7,113,512 to Holmgren et al. (hereinafter "Holmgren"). This rejection is respectfully traversed for at least the following reasons.

Claim 1 recites "wherein a first PE of the pair of PEs determines whether the first PE is to initiate the circuit, such that only one PE of the pair of PEs establishes the virtual circuit" (emphasis added). Support in the specification for the subject matter added to claim 1 can be found in, for example, paragraph [17].

Kermarec's method allocates a first virtual circuit resource at a first PE device [page 5, claim 7] and a second virtual circuit resource [page 5, claim 8] at a second PE device. Kermarec

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establishes a virtual circuit, defined by the first and second virtual circuit resources, by transmitting a first signaling message from the first PE device and subsequently sending a second signaling message from a second PE device back to the first PE device. Thus, Kermarec uses two PEs to establish a virtual circuit, instead of only one. Therefore, Applicant respectfully submits that Kermarec does not disclose, teach, or suggest the above-quoted subject matter.

While Holmgren discloses an Ethernet-to-ATM interworking technique, Holmgren is silent regarding a virtual circuit between the pair of PEs. Thus, Applicant respectfully submits that Holmgren does not disclose, teach, or suggest the above-quoted subject matter.

Accordingly, Kermarec and Holmgren fail to disclose, teach, or suggest "wherein a first PE of the pair of PEs determines whether the first PE is to initiate the circuit, such that only one PE of the pair of PEs establishes the virtual circuit," as recited in claim 1.

Applicant respectfully submits that claims 2-3 are allowable based at least on their dependence from claim 1 for the reasons stated above in connection with claim 1. For at least the foregoing reasons, it is respectfully requested that the rejection of claims 1-3 under 35 U.S.C. § 103 be withdrawn.

In section 6 on pages 5-9, the Office Action rejects claims 4-5 and 12 under 35 U.S.C. § 103(a) as allegedly being unpatentable over Kermarec and Holmgren, further in view of U.S. Patent Application Publication No. 2002/0023163 to Frelechoux et al (hereinafter "Frelechoux"). This rejection is respectfully traversed for at least the following reasons.

Claim 4 recites "wherein the virtual circuit comprises a traffic characteristic equal to the minimum traffic characteristic of the pair of PEs" (emphasis added). Support in the

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specification for the subject matter added to claim 4 can be found in, for example, paragraph [33].

Kermarec is silent regarding the traffic characteristics of virtual circuits and PEs. Thus, Applicant respectfully submits that Kermarec does not disclose, teach, or suggest the above-quoted subject matter.

Holmgren is silent regarding the traffic characteristics of virtual circuits and PEs. Thus, Applicant respectfully submits that Holmgren does not disclose, teach, or suggest the above-quoted subject matter.

Frelechoux is silent regarding the traffic characteristics of virtual circuits and PEs. Thus, Applicant respectfully submits that Frelechoux does not disclose, teach, or suggest the above-quoted subject matter.

Accordingly, Kermarec, Holmgren, and Frelechoux fail to disclose, teach, or suggest "wherein the virtual circuit comprises a traffic characteristic equal to the minimum traffic characteristic of the pair of PEs," as recited in claim 4.

Applicant respectfully submits that claim 5 is allowable based at least on its dependence from claim 4 for the reasons stated above in connection with claim 4. For at least the foregoing reasons, it is respectfully requested that the rejection of claims 4 and 5 under 35 U.S.C. § 103 be withdrawn.

Claim 12 recites "determining whether the PE is to set up a virtual circuit with the ATM address by comparing the ATM address of the PE with the other ATM address" (emphasis

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added). Support in the specification for the subject matter added to claim 12 can be found in, for example, paragraph [17].

As correctly conceded on page 6 of the Office Action, Kermarec is silent regarding an ATM address associated with a VPLS. Thus, Applicant respectfully submits that Kermarec does not disclose, teach, or suggest the above-quoted subject matter.

Holmgren is silent regarding a comparison of ATM addresses to set up a virtual circuit between PEs. Thus, Applicant respectfully submits that Holmgren does not disclose, teach, or suggest the above-quoted subject matter.

Frelechoux is silent regarding a comparison of ATM addresses to set up a virtual circuit between PEs. Thus, Applicant respectfully submits that Frelechoux does not disclose, teach, or suggest the above-quoted subject matter.

Accordingly, Kermarec, Holmgren, and Frelechoux fail to disclose, teach, or suggest "determining whether the PE is to set up a virtual circuit with the ATM address by comparing the ATM address of the PE with the other ATM address," as recited in claim 12.

For at least the foregoing reasons, it is respectfully requested that the rejection of claim 12 as allegedly being unpatentable under 35 U.S.C. § 103 be withdrawn.

In section 7 on pages 9-12, the Office Action rejects claims 6 and 7 under 35 U.S.C. § 103(a) as allegedly being unpatentable over Kermarec, Holmgren, and Frelechoux. This rejection is respectfully traversed for at least the following reasons.

Claim 6 recites "wherein the virtual circuit comprises a traffic characteristic equal to the minimum traffic characteristic of the pair of PEs" (emphasis added). Support in the

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specification for the subject matter added to claim 6 can be found in, for example, paragraph [33].

As stated in connection with the rejection of claim 4 above, Kermarec is silent regarding the traffic characteristics of virtual circuits and PEs. Thus, Applicant respectfully submits that Kermarec does not disclose, teach, or suggest the above-quoted subject matter.

As stated in connection with the rejection of claim 4 above, Holmgren is silent regarding the traffic characteristics of virtual circuits and PEs. Thus, Applicant respectfully submits that Holmgren does not disclose, teach, or suggest the above-quoted subject matter.

As stated in connection with the rejection of claim 4 above, Frelechoux is silent regarding the traffic characteristics of virtual circuits and PEs. Applicant respectfully submits that Frelechoux does not disclose, teach, or suggest the above-quoted subject matter.

Accordingly, Kermarec, Holmgren, and Frelechoux fail to disclose, teach, or suggest "wherein the virtual circuit comprises a traffic characteristic equal to the minimum traffic characteristic of the pair of PEs," as recited in claim 6.

Applicant respectfully submits that claim 7 is allowable based at least on its dependence from claim 6 for the reasons stated above in connection with claim 6. For at least the foregoing reasons, it is respectfully requested that the rejection of claims 6 and 7 as allegedly being unpatentable under 35 U.S.C. § 103 be withdrawn.

In section 8 on pages 12-13, the Office Action rejects claims 8 and 9 under 35 U.S.C. § 103(a) as allegedly being unpatentable over Kermarec, Holmgren, and Frelechoux, further in

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view of U.S. Patent No. 6,456,600 to Rochberger. This rejection is respectfully traversed for at least the following reasons.

Applicant respectfully submits that claims 8 and 9 are allowable based at least on their dependence from claim 6 for the reasons stated above in connection with claim 6. Rochberger fails to overcome the deficiencies in Kermarec, Holmgren, and Frelechoux described above.

For at least the foregoing reasons, it is respectfully requested that the rejection of claims 8 and 9 as allegedly being unpatentable under 35 U.S.C. § 103 be withdrawn.

In section 9 on pages 13-17, the Office Action rejects claims 10 and 11 under 35 U.S.C. § 103(a) as allegedly being unpatentable over U.S. Patent No. 6,337,863 to Nair et al (hereinafter "Nair") in view of Frelechoux. This rejection is respectfully traversed for at least the following reasons.

Claims 10 and 11 recite "generating at least one message, each message containing at least two PTSEs" (emphasis added). Support in the specification for the subject matter added to claims 10 and 11 can be found in, for example, paragraph [23].

Nair is silent regarding the generation of messages containing at least two PTSEs. Thus, Applicant respectfully submits that Nair does not disclose, teach, or suggest the above-quoted subject matter.

Frelechoux is silent regarding the generation of messages containing at least two PTSEs. Thus, Applicant respectfully submits that Frelechoux does not disclose, teach, or suggest the above-quoted subject matter.

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Accordingly, Nair and Frelechoux fail to disclose, teach, or suggest "generating at least one message, each message containing at least two PTSEs," as recited in claims 10 and 11.

For at least the foregoing reasons, it is respectfully requested that the rejection of claims 10 and 11 as allegedly being under 35 U.S.C. § 103 be withdrawn.

In section 10 on pages 17-19, the Office Action rejects claims 13 and 14 under 35 U.S.C. § 103(a) as allegedly being unpatentable over Kermarec and Holmgren, further in view of U.S. Patent No. 6,434,155 to Jones et al (hereinafter "Jones"). This rejection is respectfully traversed for at least the following reasons.

Claim 13 recites "wherein the virtual circuit comprises a traffic characteristic equal to a minimum of the at least one traffic characteristic and a second traffic characteristic associated with the other ATM address" (emphasis added). Support in the specification for the subject matter added to claim 13 can be found in, for example, paragraph [33].

As stated in connection with the rejection of claim 4 above, Kermarec is silent regarding the traffic characteristics of virtual circuits. Thus, Applicant respectfully submits that Kermarec does not disclose, teach, or suggest the above-quoted subject matter.

As stated in connection with the rejection of claim 4 above, Holmgren is silent regarding the traffic characteristics of virtual circuits. Thus, Applicant respectfully submits that Holmgren does not disclose, teach, or suggest the above-quoted subject matter.

On page 19, the Office Action alleges that Jones discloses at least one traffic characteristic [col. 2, line 26]. Even assuming, *arguendo*, that this assertion is correct, Jones is silent regarding a virtual circuit comprising a traffic characteristic equal to a minimum of the at

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least one traffic characteristic and a second traffic characteristic associated with the other ATM address. Thus, Applicant respectfully submits that Jones does not disclose, teach, or suggest the above-quoted subject matter.

Accordingly, Kermarec, Holmgren, and Jones fail to disclose, teach, or suggest "wherein the virtual circuit comprises a traffic characteristic equal to a minimum of the at least one traffic characteristic and a second traffic characteristic associated with the other ATM address," as recited in claim 13.

Applicant respectfully submits that claim 14 is allowable based at least on its dependence from claim 13 for the reasons stated above in connection with claim 13. For at least the foregoing reasons, it is respectfully requested that the rejection of claims 13 and 14 as allegedly being unpatentable under 35 U.S.C. § 103 be withdrawn.

In section 11 on pages 19-24, the Office Action rejects claims 15 and 16 under 35 U.S.C. § 103(a) as allegedly being unpatentable over Kermarec, Holmgren, and Frelechoux. This rejection is respectfully traversed for at least the following reasons.

Claims 15 and 16 recite "setting up a virtual circuit with the other ATM address by sending a setup message to the other ATM address, the setup message including the VPLS ID" (emphasis added). Support in the specification for the subject matter added to claims 15 and 16 can be found in, for example, paragraph [26].

Kermarec is silent regarding the use of a setup message including a VPLS ID. Thus, Applicant respectfully submits that Kermarec does not disclose, teach, or suggest the above-quoted subject matter.

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Holmgren is silent regarding the use of a setup message including a VPLS ID. Applicant respectfully submits that Holmgren does not disclose, teach, or suggest the above-quoted subject matter.

Frelechoux is silent regarding the use of a setup message including a VPLS ID. Applicant respectfully submits that Frelechoux does not disclose, teach, or suggest the above-quoted subject matter.

Accordingly, Kermarec, Holmgren, and Frelechoux fail to disclose, teach, or suggest "setting up a virtual circuit with the other ATM address by sending a setup message to the other ATM address, the setup message including the VPLS ID," as recited in claims 15 and 16.

For at least the foregoing reasons, it is respectfully requested that the rejection of claims 15 and 16 as allegedly being unpatentable under 35 U.S.C. § 103 be withdrawn.

In section 12 on pages 24-31, the Office Action rejects claims 17-22 under 35 U.S.C. § 103(a) as allegedly being unpatentable over Holmgren, Kermarec, and Frelechoux. This rejection is respectfully traversed for at least the following reasons.

Claim 17 recites "instructions for guaranteeing that only one virtual circuit is set up between the node and the other ATM address" (emphasis added). Support in the specification for the subject matter added to claim 17 can be found in, for example, paragraph [17].

Holmgren is silent regarding the set up of only one virtual circuit between a node and another ATM address. Thus, Applicant respectfully submits that Holmgren does not disclose, teach, or suggest the above-quoted subject matter.

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Kermarec is silent regarding the set up of only one virtual circuit between a node and another ATM address. Thus, Applicant respectfully submits that Kermarec does not disclose, teach, or suggest the above-quoted subject matter.

Frelechoux is silent regarding the set up of only one virtual circuit between a node and another ATM address. Thus, Applicant respectfully submits that Frelechoux does not disclose, teach, or suggest the above-quoted subject matter.

Accordingly, Holmgren, Kermarec, and Frelechoux fail to disclose, teach, or suggest "instructions for guaranteeing that only one virtual circuit is set up between the node and the other ATM address," as recited in claim 17.

Applicant respectfully submits that claims 18, 19, and 20 are allowable based at least on their dependence from claim 17 for the reasons stated above in connection with claim 17. For at least the foregoing reasons, it is respectfully requested that the rejection of claims 17-20 as allegedly being unpatentable under 35 U.S.C. § 103 be withdrawn.

Claims 21 and 22 recite "generating at least one message, each message containing at least two PTSEs" (emphasis added). Support in the specification for the subject matter added to claims 21 and 22 can be found in, for example, paragraph [23].

Holmgren is silent regarding the generation of messages containing at least two PTSEs. Thus, Applicant respectfully submits that Holmgren does not disclose, teach, or suggest the above-quoted subject matter.

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Kermarec is silent regarding the generation of messages containing at least two PTSEs. Thus, Applicant respectfully submits that Kermarec does not disclose, teach, or suggest the above-quoted subject matter.

Frelechoux is silent regarding the generation of messages containing at least two PTSEs. Thus, Applicant respectfully submits that Frelechoux does not disclose, teach, or suggest the above-quoted subject matter.

Accordingly, Holmgren, Kermarec, and Frelechoux fail to disclose, teach, or suggest "generating at least one message, each message containing at least two PTSEs," as recited in claims 21 and 22.

For at least the foregoing reasons, it is respectfully requested that the rejection of claims 21 and 22 as allegedly being unpatentable under 35 U.S.C. § 103 be withdrawn.

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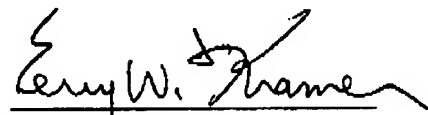
CONCLUSION

While we believe that the instant amendment places the application in condition for allowance, should the Examiner have any further comments or suggestions, it is respectfully requested that the Examiner telephone the undersigned attorney in order to expeditiously resolve any outstanding issues.

In the event that the fees submitted prove to be insufficient in connection with the filing of this paper, please charge our Deposit Account Number 50-0578 and please credit any excess fees to such Deposit Account.

Respectfully submitted,
KRAMER & AMADO, P.C.

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